

**We would like to discuss DEQ issues during this hour, including:**

**1. Consideration of the following bill:**

**HB589 Competitive Energy Solutions for NC** (Renewables) institutes a moratorium on new wind energy permits retroactive to January 1, 2017, to December 31, 2018 (due to Harry Brown amendment), creates a competitive bidding process for solar developers, reforms NC's interpretation of PURPA, and puts in place a solar leasing program permitting customers to work with private parties.

The bill passed the House 66-41 and passed the Senate 36-4. Markus Wilhelm of Strata Solar (with reluctance) and Steve Levitas of Cypress Creek urge signature. NC Sustainable Energy Association has members on both sides, not sure they'll take a stand. Bruce and Nancy Thompson urge veto because of wind moratorium, arguing it constitutes a taking for Weyerhaeuser which has leased land to wind developers. Republicans Szoka, Arp, and Watford are the primary sponsors.

**SB410 Marine Aquaculture Development Act** establishes a program for the Secretary of DEQ to grant marine aquaculture (rearing marine aquatic species in controlled environments including ocean ranching, marine hatcheries, and fish farming operations) leases subject to certain criteria and requires termination of the lease under certain circumstances, requires DEQ's Division of Marine Fisheries to request the issuance of federal rules to allow marine aquaculture in federal waters off the coast of North Carolina, establish email accounts for all Marine Fisheries Commission members for public records purposes, and authorizes DEQ to negotiate an agreement with federal government agencies for NC to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway. Passed the House 91-21 and passed the Senate 46-0. Republicans Cook, Sanderson, and Tillman are the primary sponsors.

**2. Continued action on Paris Accord; consideration of Governor's Climate Alliance:**

We have several requests to join this group, which is similar to Paris Accord but focused on governors rather than municipalities, counties, industry, etc. Summary of Alliance below:

**Governors' United States Climate Alliance**

The United States Climate Alliance is a bipartisan coalition of U.S. states and territories committed to upholding the goals of the 2015 Paris Agreement on climate change. Members of the Alliance will collaborate to ensure that the U.S. continues to contribute to the global effort to address climate change.

The Alliance was established on June 1, 2017 following the federal government's decision to withdraw the U.S. from the Paris Agreement. Governors Andrew Cuomo, Jay Inslee and Jerry Brown established the Alliance as co-chairs. The Alliance currently consists of 13 members: California, Connecticut, Delaware, Hawaii, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, Virginia, Washington, and Puerto Rico. **(11D, 2R). Not joined but requested to join: MT, NC, PA, WV, LA**

The Alliance now represents **XX** million people and **XX** trillion USD in GDP.

### **United States Climate Alliance Principles**

*States are taking up the mantle of leadership in addressing climate change:*

Alliance members recognize that climate change is an existential threat to our states, our economies, and the health and prosperity of our citizens, and we are committed to protecting our communities from this threat.

*State climate action is benefitting our economies and strengthening our communities:* Alliance members are growing our clean energy economies and creating new jobs, while reducing air pollution, improving public health, and building more resilient communities.

*States are showing the nation and the world that ambitious climate action is achievable:* Despite the U.S. federal government's decision to withdraw from the Paris Agreement, Alliance members are committed to supporting the international agreement and are pursuing aggressive climate action to make progress toward its goals.

### **United States Climate Alliance Commitment**

#### **Each member state commits to:**

- **Implement** the goals of the Paris Agreement to reduce greenhouse gas emissions by at least 26-28 percent below 2005 levels by 2025;
- **Track** and report progress to the global community in appropriate settings, including when the world convenes to take stock of the Paris Agreement; and
- **Accelerate** new and existing policies to reduce carbon pollution and promote clean energy deployment at the state and federal level.

**4. Offshore oil drilling and related comments on seismic testing and oil leases.** Schedule shared by DEQ as follows. For background, DEQ did not take the first action (July 6 consistency review) but included here for background:

- **July 21:** Deadline to submit comments on the Incidental Harassment Authorizations. DEQ plans to submit comments expressing concern on impacts to marine mammals.  
*Significance of State Action: NOAA-NMFS may deny the IHA or limit seismic surveys within NC if comments demonstrate more than a minimal harm to marine mammals.*
- **August 17:** Deadline to submit comments on the Request for Information on a new National Outer Continental Shelf Oil and Gas Leasing Program that will run from 2019-2024 and replace the existing 2017-2022 Program. *Significance of State Action: Bureau of Ocean and Energy Management could exclude NC from the oil and gas program for this time period so that no leases would be auctioned off the shore of NC.*
  - After the RFI, the Bureau of Ocean and Energy Management prioritizes lease blocks and issues a Notice of Sale that will have a 60-day public comment period and a concurrent 60-day comment period for the Governor
  - After the Notice of Sale, there is a State Consistency Determination that runs for 60 days
  - After State Consistency, there is a Final Notice of Sale at least 30 days prior to the sale
  - Then, bidding, evaluation of bids, and issuance of a lease block for 5-10-year period
  - Then, well permitting process that has a consistency coordination and a public review period
- **No date certain:** Review new studies (zooplankton study just issued) and review any changes in projects to determine if consistency determinations should be revisited.
- **(DEQ did not submit) July 6:** Deadline to request consistency review on incidental harassment authorizations (IHA) of marine mammals during seismic surveys. In 2014-15, we had an opportunity to request review on IHA, but did not do so. If we request consistency review on IHA now, it would affect only two (2) companies, not all of them. We are preparing a draft request for consistency review to meet tomorrow's deadline. We requested and were denied an extension this afternoon. We do not have a specific state standard related to marine mammals so we will need to make a case that marine mammals have a geographic nexus to state waters as one of our state marine resources (beyond merely passing through state waters). *Significance of State Action: If NMFS authorizes a consistency review and NC finds a project inconsistent with state law and standards, my understanding is that it cannot proceed, but must instead go to mediation and/or litigation.*
  - The discussion on consistency gets confusing quickly because in 2014-15 we requested and received authorization to conduct consistency reviews on seismic survey permits – a precursor to incidental harassment authorization. Four (4) companies came forward and submitted projects to our Division of Coastal Management for review to determine if they were consistent with state law and guidance. We issued a letter to each company expressing three concerns and one condition. The concerns were on (1) impacts essential fish habitat designated by National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS); (2) user conflicts during fishing tournaments and other seasonal events; and (3) following mitigation measures outlined in the 2014 programmatic environmental impact statement. On top of the concerns, we placed a condition that any company wishing to proceed with a seismic survey must meet with the Division of Coastal Management to provide detailed information on the location and timing of the surveys. The letters were similar in content so I've attached the one to CGG for your reference. One company, CGG, has

requested a pre-survey meeting, but it has not yet been scheduled and CGG says it is not in a hurry.

- At least one of the companies seeking an IHA has not submitted their project for consistency review under a seismic survey permit, so that company cannot proceed unless and until they obtain a consistency determination from our Division of Coastal Management.

## **Draft Talking Points in Opposition to Offshore Oil and Gas (MPK)**

North Carolina's coast is a priceless and unique resource to its people. We cannot jeopardize it for the development of oil and gas that could damage the resource and may never provide a local benefit.

Visitors come from across the world to admire our outer banks and shores, play in the ocean and sounds, and enjoy our seafood. According to the National Ocean Economics Program, the 2013 North Carolina ocean economy contributed \$2.1B to the gross domestic product, 43,385 jobs and \$820M in wages. Any type of oil spill would damage our coastal economy.

Besides an incredible coastline, North Carolina can boast of incredibly productive and essential fish habitat in its offshore waters at such colorfully-named places like The Point, Ten Fathom Ledge, Big Rock, Shoals of Cape Lookout, Cape Fear and Cape Hatteras. Our regional fisheries council, the South Atlantic Fishery Management Council, recognizes these areas as Essential Fish Habitat and Areas of Particular Concern. In 2015, the Council voiced concern in its policy guidance about seismic testing and drilling in the Atlantic. As a baseline figure, in 2013, recreational fishing provided an estimated additional \$1.6B in sales and 16,150 jobs. Seismic surveys, drilling platforms, pipeline and tanker ships all create user conflicts that will prevent fishing in the surrounding areas.

There is no reason to harm our coastal economy for a trade-off on energy when North Carolina has become a national leader in solar energy and continues to develop its renewable energy production. [statistics on renewables?] Our renewable energy portfolio can lead to energy independence just as surely as traditional oil and gas, but without the difficult capital construction in deep water and without the ever-present risk of toxic leaks and spills.

### **Damage**

- Degradation of natural resources
  - On-shore infrastructure could harden our coast in contravention of legal precedent protecting user access to the wet sand beach and natural shorelines
- Disruption of fishing / fisheries
- Damage to coastal fisheries and hunting grounds would have a major impact on business in the state, and numerous groups, including the [ [HYPERLINK "http://usa.oceana.org/sites/default/files/662/safmcenergypolicydec1415.pdf"](http://usa.oceana.org/sites/default/files/662/safmcenergypolicydec1415.pdf) ] and [ [HYPERLINK "http://www.mafmc.org/newsfeed/2016/council-announces-policies-on-non-fishing-activities-that-threaten-fish-habitat"](http://www.mafmc.org/newsfeed/2016/council-announces-policies-on-non-fishing-activities-that-threaten-fish-habitat) ] Fishery Management Councils have voiced concern about seismic testing and drilling in the Atlantic.
  - South Atlantic Fishery Management Council (NC, SC, GA, and east coast of FL to Key West) issued policy guidance in 2015 to avoid and minimize impacts to offshore and coastal waters, riverine systems, and adjacent wetland habitats, including: waters and benthic habitats in or near drilling and disposal sites or other energy development sites; exposed hardbottom in shallow and deep waters; coastal wetlands and coastal inlets; riverine systems and associated wetlands; and

intertidal oyster reefs, and identified at least 13 species and their essential fish habitat as potentially affected by federal management of proposed OCS waters.

- Mid-Atlantic Fishery Management Council (NC, VA, MD, DE, PA, NJ, NY) issued policies on non-fishing activities and projects that impact fish habitat including policies specific to offshore oil, liquefied natural gas, marine transport, and coastal development.
- That concern was only heightened when a new study came out late last week, showing that micro-organisms—such as plankton—are damaged by seismic testing.
  - [ [HYPERLINK "https://www.nature.com/news/air-guns-used-in-offshore-oil-exploration-can-kill-tiny-marine-life-1.22167"](https://www.nature.com/news/air-guns-used-in-offshore-oil-exploration-can-kill-tiny-marine-life-1.22167) ] published in *Nature Ecology and Evolution* found that the mortality rate for plankton is two to three times higher during seismic testing. These findings are particularly worrisome given the critical role plankton play in the ocean's food chain.

#### Unnecessary

- Ports in other states larger for tankers
- Refineries in northeastern states larger
- North Carolina has a thriving sector of renewable energy that can create energy independence in a safer and cleaner way.
- Coastal communities almost unanimously against it

#### Uncertain

- Uncertain revenue to the state, particularly if oil and gas tanked away → all of the risk without any of the benefit
- Uncertain jobs – could be out of state; out of country
- No workforce trained to support the industry
- Goes into national supply, not NC
- Comparison of volumes off NC versus Gulf, Alaska, California – orders of magnitude smaller
- Protecting public trust
- New area of regulation for utilities – if onshore facilities